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Ukraine's Political Crisis and U.S. Policy Issues

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Ukraine's Political Crisis and U.S. Policy Issues

Summary

In 2004, many observers believed that Ukraine was at a key period in its transition that could shape its geopolitical orientation for years to come, in part due to presidential elections held on October 31, November 21, and December 26, 2004. In their view, Ukraine could move closer to integration in Euro-Atlantic institutions, real democracy and the rule of law, and a genuine free market economy, or it could move toward a Russian sphere of influence with “managed democracy” and an oligarchic economy. For the past decade, Ukraine’s political scene had been dominated by President Leonid Kuchma and the oligarchic “clans” (regionally based groups of powerful politicians and businessmen) that have supported him. The oligarchs chose Prime Minister Viktor Yanukovich as their candidate to succeed Kuchma as President. The chief opposition candidate, former Prime Minister Viktor Yushchenko, was a pro-reform, pro-Western figure seen by many observers as a man of high personal integrity.

International observers criticized the election campaign and the first and second rounds of the election as not free and fair, citing such factors as government-run media bias in favor of Yanukovich, abuse of absentee ballots, barring of opposition representatives from electoral commissions, and inaccurate voter lists. Nevertheless, Yushchenko topped the first round of the vote on October 31 by a razor-thin margin over Yanukovich. Other candidates finished far behind. After the November 21 runoff between the two top candidates, Ukraine’s Central Election Commission proclaimed Yanukovich the winner. Yushchenko’s supporters charged that massive fraud had been committed. They blockaded government offices in Kiev and appealed to the Ukrainian Supreme Court to invalidate the vote as fraudulent. The court did so on December 3, calling for a repeat of the second round on December 26. Yushchenko won the December 26 re-vote, with 51.99% of the vote to Yanukovich’s 44.19%. After several court challenges by Yanukovich were rejected, Yushchenko was inaugurated as President of Ukraine on January 23, 2005.

The European Union and the United States strongly denounced electoral fraud in Ukraine in the first two rounds, and hailed the largely free and fair conduct of the repeat vote. In contrast, Russian President Vladimir Putin openly backed Yanukovich and publicly congratulated him on his “victory” soon after the second round vote. Russian officials have charged that the United States and the European Union’s charges of electoral fraud were an attempt to bring Ukraine under western influence. U.S. policymakers must tackle such difficult issues as how to promote democracy in Ukraine, Ukraine’s possible troop withdrawal from Iraq, and U.S.-Russian tensions over Ukraine’s future geopolitical orientation.

The 109th Congress adopted legislation on the Ukrainian elections. H.Con.Res. 16 and S.Con.Res. 7 congratulated Ukraine for its commitment to democracy and its resolution of its political crisis in a peaceful manner, and pledged U.S. help to Ukraine’s efforts to develop democracy, a free market economy, and integrate into the international community of democracies. This report will not be updated.

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Ukraine's Political Crisis And U.S. Policy Issues

Ukraine's Political Transition

In 2004, many observers believed that Ukraine was at a key period in its transition that could shape its geopolitical orientation for years to come, in part due to presidential elections held on October 31, November 21, and December 26, 2004. In their view, Ukraine could move closer to integration in Euro-Atlantic institutions, real democracy and the rule of law, and a genuine free market economy, or it could move toward a Russian sphere of influence, with “managed democracy” and an oligarchic economy.

Ukraine, comparable in size and population to France, is a large, important European state in its own right.¹ The fact that it occupies the sensitive position between Russia and new NATO member states Poland, Slovakia, Hungary, and Romania, adds to its geostrategic significance regionally and for the United States. Many Russian politicians, as well as ordinary citizens, have never been fully reconciled to Ukraine's independence in 1991. Russian nationalists in particular view a (re)union with Ukraine as highly desirable, natural, and virtually inevitable. The U.S. and European view, especially in Central and Eastern Europe, is that a strong, independent Ukraine is an important source of regional stability.

Over the past decade, Ukraine's political scene has been dominated by President Leonid Kuchma and the oligarchic “clans” (regionally-based groups of powerful politicians and businessmen) that have supported him. Kuchma was elected President in 1994, and re-elected in 1999. He could not run for a third term under the Ukrainian constitution. His rule was characterized by fitful economic reform (albeit with solid economic growth in recent years), widespread corruption, and a deteriorating human rights record. The oligarchs chose Prime Minister Viktor Yanukovich, a representative of the powerful Donetsk clan in eastern Ukraine, as their candidate to succeed Kuchma as President. During the campaign, Yanukovich and other Ukrainian government leaders called for closer ties with Moscow and

¹ Ukraine became part of the Russian Empire in the late 1600s, experienced a brief period of independence at the end of the First World War, was reconquered by Soviet armies, and was a republic of the Soviet Union from 1922 until the dissolution of the U.S.S.R. in December 1991. Eastern Ukraine is heavily industrialized, with a large defense industrial sector and large, though inefficient, coal and steel industries. Ukraine's industries are closely integrated with those of Russia. The population of eastern Ukraine is also said to be substantially “Russified.” It has a substantial population of ethnic Russians and most of the ethnic Ukrainian population in the east speaks Russian as their first language. Western and central Ukraine are more agricultural, and Ukrainian nationalism is more prominent there.

downplayed the prospects for NATO membership and Euro-Atlantic integration for the foreseeable future. Yanukovych supporters also used anti-American themes in their campaign.

The chief opposition candidate, former Prime Minister Viktor Yushchenko, is a pro-reform and pro-Western figure seen by many observers as a man of high personal integrity. The Kuchma regime reportedly feared that Yushchenko could move to clean up corruption if elected, which could expose Kuchma and other current leaders to criminal prosecution. The oligarchs could also lose property acquired through privatizations of dubious legality, some occurring in the weeks and months leading up to the vote.

Electoral Campaign Conditions

Prior to the election, U.S. and international officials expressed concern about the lack of press freedom in Ukraine. Almost all major broadcast media were under tight control of the government or of businessmen with close ties to the government. Government-controlled broadcast and press outlets engaged in biased reporting in favor of Yanukovych, while Yushchenko was sharply criticized, according to a long-term observer mission from the Organization for Security and Cooperation in Europe (OSCE). Independent print media and the few independent broadcast outlets expressed a wide variety of views, but Ukrainian journalists have been subject to harassment and, in some cases, violence.² Independent media were subject to selective tax audits, libel suits, pressure on printing and distribution, and refusal to renew broadcasting licenses.

According to most international observers, Ukrainian authorities violated standards for free and fair elections in other ways during the campaign. OSCE observers noted in reports in September and October 2004 that government employees, factory workers and students were threatened with dismissal unless they supported Yanukovych. Opposition efforts to hold election rallies were hampered at times by government harassment. In early September 2004, Yushchenko accused the authorities of trying to poison him. On September 6, Yushchenko fell seriously ill, shortly after attending a dinner with the chief of the Ukrainian security services. After his condition worsened, he was rushed to a medical clinic in Austria. Doctors were unable to determine the cause of the illness at the time. Yushchenko soon resumed campaigning, but his health remained fragile and his face severely pockmarked.

Over 3,500 election observers registered to monitor the October 31 vote, according to Ukrainian officials. These included a group of 600 observers from the

² In November 2000, an audio tape provided by a former bodyguard of Ukrainian President Kuchma purportedly captured Kuchma's orders to top officials to neutralize independent journalist Georgiy Gongadze, whose headless, mutilated body had been found by police. Kuchma's alleged involvement in this murder is seen by some as a key factor in undermining his public support and credibility in Ukraine. CRS Report RL30984, *Ukraine's Future and U.S. Policy Issues*, p. 1.

OSCE. Other institutions represented included the Council of Europe, the International Republican Institute, the National Democratic Institute, Freedom House, the World Congress of Ukrainians, and the Commonwealth of Independent States. A similarly large number of international observers were present for the second round of the election on November 21. Ukrainian law did not provide for domestic non-partisan election observers, a serious shortcoming, according to the OSCE.

Election Results

On November 10, after a substantial delay, the Ukrainian Central Election Commission announced the final results of the first round of the election. According to the CEC, Yushchenko won 39.87% of the vote, while Yanukovych won 39.32%. Socialist Party leader Oleksandr Moroz won 5.81%, and Communist Party leader Petro Symonenko received 4.97% of the vote. The remaining 20 candidates split the remaining vote. According to Ukrainian law, since no candidate received 50% of the vote, the top two finishers, Yanukovych and Yushchenko, moved on to a November 21 runoff election. The distribution of the first round vote broke down sharply along regional lines, with the more nationally-oriented western and central Ukraine supporting Yushchenko and the more Russified eastern and southern Ukraine supporting Yanukovych. For example, Yanukovych won 86.94% in his home region of Donetsk, while Yushchenko received only 2.94%. In the Lviv region in western Ukraine, Yushchenko won 87.25%, while Yanukovych won 5.81%. Turnout for the first round was an impressive 74.95%.³

International observers from the OSCE criticized the first round of the election, saying that it fell short of international democratic practices in several respects. The observers noted problems in the campaign including heavy media bias, use of government resources on behalf of Yanukovych, and government interference with opposition campaign events. Observers noted significant problems on election day, including a large number of names missing from voting rolls and the last-minute barring of some members of local electoral commissions from their posts.⁴ Pointing to exit polls and a parallel vote count conducted by the opposition, the Yushchenko campaign charged that widespread government fraud and intimidation denied Yushchenko a large lead over Yanukovych, perhaps even outright victory in the first round. Despite these concerns, Yushchenko said that he was prepared to go forward with the second round of voting on November 21.

On November 24, the Ukrainian Central Election Commission announced that Yanukovych had won the second round with 49.46% of the vote, with Yushchenko receiving 46.61%. Turnout for the election was said to be 80.85%. Yushchenko's supporters charged that massive fraud had been committed. They pointed to exit

³ For the official results of the elections, see the website of the Ukrainian Central Election Commission, [<http://ic2-www.cvk.gov.ua/wp0011e>].

⁴ For the texts of the OSCE observation mission reports on the Ukrainian elections, see the OSCE website, [<http://www.osce.org>].

polls that showed a victory for Yushchenko by a comfortable margin, as well as improbable turnout figures in Yanukovych strongholds, including 96.65% in the Donetsk region. The officially reported second round results showed the same regional split as the first round, with Yushchenko winning overwhelmingly in western and central Ukraine and Yanukovych winning by massive margins in eastern and southern Ukraine.⁵

Election observers from the OSCE again said that the conduct of the November 21 runoff was not consistent with democratic standards. Fraudulent practices noted by international observers included abuse of absentee ballots, abuse of mobile ballot boxes, expulsion of opposition representatives from electoral commissions, violence against media representatives, inaccurate voter lists, and official pressure on students and government and private sector workers to vote for Yanukovych. The Yushchenko campaign also provided what it called tape-recorded evidence of systematic, large-scale fraud in the vote count.

Ukraine's Political Crisis

On November 22, after preliminary results favoring Yanukovych were published, Yushchenko claimed victory in the election, and his supporters warned that they would launch court challenges, massive, non-violent street protests and other forms of civil disobedience to overturn the fraudulent result. On November 23, Yushchenko, in a symbolic move, took the oath of office of the President of Ukraine in the parliament chamber, while as many as 200,000 Yushchenko supporters demonstrated outside the building. Tens of thousands attended protests in other Ukrainian cities, mainly in western Ukraine. The government of the capital, Kiev, as well as the cities of Lviv, Ivano-Frankivsk, Vynntsia, and Ternopil in western Ukraine announced that they would recognize only Yushchenko as President.

On November 25, the Ukrainian Supreme Court blocked official publication of the election result, the last step required before the winning candidate can be inaugurated, pending its consideration of Yushchenko's fraud charges. On November 27, the Ukrainian parliament approved a resolution calling the election invalid and passed a vote of no confidence in the Central Election Commission. Although neither of these votes was binding on the government, they denoted that the pro-regime majority in the parliament was fragmenting or bending to popular pressure, and represented a serious blow to the regime's prestige. On December 1, the parliament took the further step of adopting a motion of no-confidence in the Yanukovych government, which required Kuchma to decide whether to keep Yanukovych as the head of a caretaker government or appoint someone else.

Another indication of the erosion of the regime's support after the second round vote was the refusal of journalists at pro-government broadcast stations to continue to follow regime guidelines on coverage. They provided more balanced coverage of opposition leaders and the massive opposition demonstrations in Kiev. The opposition kept the pressure up on the regime by holding massive rallies in Kiev, in

⁵ Ukrainian Central Election Commission, [<http://ic2-www.cvk.gov.ua/wp0011e>].

which hundreds of thousands of people participated, and by peacefully blockading the parliament and government office buildings.

It was unclear at first whether Ukrainian internal security forces or the army would obey possible orders to use violence against protesters. A statement by the Ukrainian prosecutor general, the interior ministry and the security services on November 22 warned that they would put an end to any “lawlessness” by the opposition “quickly and firmly.” On the other hand, the Defense Minister and the head of the Security Service of Ukraine, Ukraine’s chief intelligence agency, said that they would not issue orders to use force against protesters. The leading posts in Ukraine’s internal security services were deemed by analysts to be held by supporters of an oligarchic group led by Ukrainian Presidential Administration chief Viktor Medvedchuk. However, the large number of people that Yushchenko managed to turn out into the streets appeared to give the regime pause. Moreover, it appears that Yushchenko and his supporters made substantial inroads in persuading rank-and-file police not to obey orders to use force against protesters. A December 14 report in the *Financial Times* cited Western intelligence reports, Yuri Baziv, deputy head of the Presidential Administration, and others as saying that Yanukovich and Medvedchuk urged President Kuchma to use force against the demonstrators on November 28 but that Kuchma refused. Another report claimed that leaders of the Security Service of Ukraine and Ukrainian military intelligence played key roles in persuading senior Interior Ministry officers not to implement oral instructions, presumably by Medvedchuk and Yanukovich, to use violence against protesters on November 28.⁶

The massing of several hundred thousand ardent Yushchenko supporters in Kiev’s Independence Square and the continuation of this “people power” pressure on the government for two weeks was extraordinary in several respects. The demonstrators remained peaceful and well disciplined throughout. Extensive logistical support was put in place very quickly to support the mass demonstrations. These efforts testify not only to the determination of the demonstrators, but suggest strong leadership and advanced planning, preparation, and training as well.

Perhaps fearful of the regime’s loss of control of the situation in Kiev, on November 29 officials from 17 regional governments in southern and eastern Ukraine met in Yanukovich’s eastern Ukraine power base and adopted a resolution warning that their regions would seek autonomy within Ukraine if Yushchenko becomes President. The regional legislature in Donetsk, Yanukovich’s home region, announced that it would hold a referendum on autonomy for the region. (The announced referendum was later cancelled.)

On December 3, the Ukrainian Supreme Court ruled that the second round of the election was invalid, due to vote fraud. It called for a repeat vote of the second round to be held on December 26. The court’s decision marked a major victory for Yushchenko. However, subsequent negotiations between the parties over how to implement the decision proved difficult. Yushchenko wanted Kuchma to dismiss the

⁶ C.J. Chivers, “Back Channels: A Crackdown Averted,” *New York Times*, January 17, 2005, 1.

Yanukovych government and the Central Electoral Commission, which oversaw the fraudulent vote. He also wanted the Ukrainian parliament to pass changes to electoral legislation to eliminate the methods used by the authorities to falsify the previous vote.

For his part, President Kuchma resisted dismissing the Yanukovych government. He granted Yanukovych's request for a temporary leave of absence from his post during the campaign for the repeat vote. Kuchma and regime loyalists in parliament said that they would support election law changes and dismissing the Central Election Commission only if the parliament approved amendments to the Ukrainian constitution to reduce the powers of the presidency and increase those of parliament and the prime minister. The move served to split anti-regime forces in the parliament. The Socialists, who favor Yushchenko, also strongly supported the amendments. The Communists, who rejected both candidates in the second round, also advocated these political reforms.

On December 8, the Ukrainian parliament agreed on a package of measures aimed at ending the political crisis. The parliament approved changes to the election law to reduce the chances of electoral fraud in the December 26 revote. The parliament dismissed the Central Election Commission and approved a new commission. A majority of the new members were proposed by pro-Yushchenko groups. In contrast, the candidacies of the former chairman of the commission and supporters of Yanukovych were voted down.

The parliament also overwhelmingly approved political reforms reducing the powers of the presidency, which will go into effect in September 2005 if a new law on local government is passed and in January 2006 if it is not. Under the reform, the Cabinet of Ministers will be the supreme executive body in Ukraine. The President will have the power to nominate the prime minister, the foreign minister, and the defense minister, subject to the approval of parliament. The rest of the government will be nominated by the prime minister and approved by the parliament. The President will retain the power to appoint governors in Ukraine's regions.

Power in the parliament appeared to be shifting to Yushchenko. The pro-regime majority in the parliament, which appeared increasingly shaky during the crisis, began to fall apart, with many former regime loyalists either drifting toward Yushchenko or adopting a more neutral stance. Kuchma's shift from support of Yanukovych to his support for the reform package also demonstrated the lack of solidarity among senior regime leaders. Yanukovych sharply criticized the reform package, saying that he doubted the new vote would be free and fair, given that he now had no representatives on the CEC. He added that he felt that Kuchma had betrayed him.

On December 11, doctors at Austria's Rudolfinerhaus clinic, who treated Yushchenko for his mysterious illness during the election campaign, confirmed that Yushchenko had been poisoned with the toxic substance dioxin. After the report, the parliament and government prosecutors reopened their inquiry into the case. Yushchenko called for the investigation to be put off until after the vote, so as to not unduly influence the campaign. However, observers noted that the report was likely

to further increase sympathy and support for Yushchenko and antipathy toward the regime.

Results of the December 26 Repeat Election

On December 28, the Ukrainian Central Election Commission announced that, with 100% of the vote counted, Yushchenko had beaten Yanukovych 51.99% to 44.19%. As in the first two rounds, support for the candidates was divided sharply on regional lines. Yushchenko won decisively in western and central Ukraine, while Yanukovych won in southern and eastern Ukraine, although Yushchenko made modest inroads in some areas of eastern Ukraine. Turnout for the repeat election was 77.3%. International observers said that although some problems remained, the conduct of the repeat election marked a great improvement over the conduct of the first two rounds, moving Ukraine “substantially closer” to OSCE standards. Yanukovych refused to accept the election result and charged that fraud had been committed. On December 31, he resigned as Prime Minister. He lodged a series of legal challenges to the results. After these appeals were rejected by the Ukrainian Supreme Court, Yushchenko was inaugurated as President of Ukraine on January 23, 2005.

Yushchenko has said that he will divide government positions proportionately among the parties and group that supported him and that he will replace all of Kuchma’s regional governors, including those in eastern Ukraine. On January 24, Yushchenko announced the nomination of Yulia Tymoshenko as Prime Minister. Tymoshenko is a energetic, charismatic leader with a sometimes combative political style who campaigned effectively on Yushchenko’s behalf. However, she is a controversial figure due to her connection in the mid-1990s with oligarchic elites, including former Prime Minister Pavlo Lazarenko, currently serving a sentence in a U.S. prison for fraud, money laundering, and extortion. Tymoshenko served as a head of a gas trading firm and as Deputy Prime Minister in Lazarenko’s notoriously corrupt government. She is reportedly extremely wealthy.

However, when serving as Deputy Prime Minister in Yushchenko’s government from 1999 to 2001, she pushed through reforms that squeezed an estimated \$2 to \$3 billion in tax revenue from her former colleagues in the energy sector, earning their bitter enmity. As a result, she was ousted from the government in 2001, and Yushchenko’s government later collapsed. She was then investigated on corruption and money laundering charges and was briefly jailed. All charges were formally dropped after Yushchenko’s election. Russia also filed bribery charges against her shortly before the election campaign. These charges may effectively bar her from traveling to Russia if she becomes the Prime Minister, unless Russian prosecutors decide to drop them.

Yushchenko has said that his key domestic priorities included reducing the size of the unofficial, “shadow” economy; maintaining macroeconomic stability; and, above all, fighting corruption. He vowed to prosecute those guilty of crimes, including fraud during the recent election and the attempt on his life. He said that he does not envision wholesale reversal of sometimes dubious privatization deals in the past 15 years (a possible relief to some oligarchs) but that he will revisit a few highly questionable privatizations that occurred in the run-up to the election. His main

foreign policy priority is expanding ties with the EU, at first seeking EU designation as a market economy. After Ukraine receives World Trade Organization membership, he wishes to establish a free trade zone with the EU, and finally, an association agreement in 2007, the first step to EU membership.

International Response

Russia

During the campaign, President Putin and other Russian leaders made many statements in support of Yanukovych. A large number of Russian political consultants associated with the Kremlin advised Yanukovych's campaign. U.S. officials have said that there were credible reports that Russia supplied large sums to the Yanukovych campaign. President Putin visited Ukraine just before each of the two rounds of the vote and praised the achievements of Yanukovych's government. In contrast to Western concerns about the election, Russian President Putin pointedly congratulated Yanukovych on his alleged victory in the second round of what Putin called a fair election, even before the official vote count was announced.⁷

Russian officials strongly condemned Western and OSCE charges of electoral fraud as interference in Ukraine's internal affairs and motivated by a desire to increase Western influence in Ukraine at Moscow's expense. After a hasty meeting with Kuchma in Moscow after the second round of the election, Putin ridiculed the idea of a repeat of the second round. After the Ukrainian Supreme Court's decision, Putin said on December 6 that he would work with any democratically-elected Ukrainian leader, but then charged that Yushchenko was trying to seize power by force. At an OSCE foreign ministers' meeting in Sofia, Bulgaria on December 7, Russia blocked a statement supporting the Ukrainian Supreme Court's decision invalidating the election and calling for a new vote on December 26. Russian officials sharply criticized the political reform package passed by the Ukrainian parliament on December 8. Putin waited until all of Yanukovych's legal appeals were exhausted to congratulate Yushchenko on his election.

Despite Moscow's former hostility, President Yushchenko visited President Putin in Moscow on January 24, in fulfillment of a campaign pledge to make his first foreign trip as President to Russia. Both leaders attempted to strike a conciliatory tone. Yushchenko called Russia "a permanent strategic partner" of Ukraine. Putin, for his part, tried to shift the blame for Moscow's support for Yanukovych, claiming that Russia "never acted in underhanded ways" in the former Soviet states, and that Moscow did "only what the outgoing leadership requested of us." However, Yushchenko made clear that his main priority would be to integrate into the EU and other Euro-Atlantic structures and would subordinate any participation in the Russian-led Single Economic Space to this goal.

Russia's conduct during the political crisis in Ukraine could be important in shaping Russia's relations with the United States and most of the rest of Europe for

⁷ RFE/RL, *Newsline*.

years to come. Many observers in Ukraine, Europe, and the United States see Moscow's actions in connection with the Ukrainian election and the subsequent political crisis as an attempt by the Putin regime to reassert Russian dominance over Ukraine. Moscow mayor Yuri Luzhkov attended the November 29 meeting of leaders from Ukraine's southern and eastern regions that called for autonomy in response to a possible Yushenko victory. He delivered a speech praising the group and harshly denouncing Yushchenko. Some observers assert that Luzhkov's appearance at the gathering may be a sign that Russia was willing to go so far as to appear to support separatism in Ukraine in order to retain its influence there.

Some critics of Russian policy are quick to point out that this Ukrainian issue is not an isolated event. They note Russia's increased pressure on neighboring Georgia and Moldova, where Moscow maintains military bases in defiance of those governments' oft-repeated demands for their withdrawal, and Russian support of armed separatist regimes there.⁸ They see this as an attempt to reestablish Russian control on the territory of the former Soviet Union. Many of these critics also call attention to what they see as similarly disturbing policies of President Putin inside Russia, such as: curtailing press freedom, especially of the broadcast media; moving even beyond "managed democracy" toward a form of "soft authoritarianism" thinly disguised by sham elections; and undermining free markets by dismantling Yukos, one of Russia's biggest, most important — and most independent-minded — businesses, and threatening similar action against other businesses that oppose the Kremlin.

Some observers view Russian intervention in Ukraine as a critical issue. They believe that without Ukraine, Russia cannot be an empire; with Ukraine, Russia is automatically an empire; and whether or not Russia is an empire is profoundly important in shaping Russia's own evolution, in its relations with its neighbors, and also for the security interests of United States.⁹

European Union

The Presidency of the European Union and the European Parliament rejected the second round results as fraudulent and advocated a repeat election, even before one was ordered by Ukraine's Supreme Court. EU leaders expressed this view during a November 25 EU-Russia summit meeting with President Putin. The European Union and some of its member countries played key roles in international efforts to broker a solution to the political crisis. After the second round, German Chancellor Gerhard Schroeder, who has cultivated a close relationship with the German-speaking Putin, reportedly tried during several telephone conversations with

⁸ Russia provides economic, political, and military support to the Abkhazian and South Ossetian separatist movements in Georgia and to the self-proclaimed "Dniester Republic" in Moldova.

⁹ See for example, Zbigniew Brzezinski, *The Grand Chessboard: American Primacy and its Geostrategic Imperatives*, Basic Books, N.Y., 1997.

the Russian leader to convince him to support a new election in Ukraine.¹⁰ EU foreign policy chief Javier Solana, Polish President Aleksandr Kwasniewski, and Lithuanian President Valdas Adamkus have served as mediators in several rounds of talks in Kiev with President Kuchma and both candidates. After the December 26 re-vote, EU leaders noted the positive assessment by international observers of the conduct of the election and said that the resolution of Ukraine's political crisis would clear the way for closer EU-Ukraine cooperation.

Now that Yushchenko has taken office, the EU will be faced with the issue of whether to upgrade its relationship with a more democratic Ukraine, including whether to offer the possibility of eventual membership. The EU has unveiled a new Neighborhood Policy aimed at strengthening ties with countries around the newly enlarged EU, including Ukraine, but the new policy does not include even the remote prospect of membership. EU officials have greeted with little enthusiasm Yushchenko's ambition to sign an association agreement with Brussels by 2007. Many observers note that some EU countries, including France and Germany, appear more reluctant to offend Moscow than countries such as Poland and Baltic states, which see a democratic Ukraine as a buffer against a possibly neo-imperialist Russia. In contrast, France, Germany, and other EU countries stress the importance of maintaining good ties with Moscow, in order to preserve regional stability and key economic ties with Russia. In addition, possible membership for Ukraine poses difficult problems of its own for the EU, which is struggling to incorporate recently admitted members, as well as possible future new members in Turkey and the Balkans.

U.S. Policy

Before the elections, the United States warned Ukrainian leaders that Ukraine's prospects for Euro-Atlantic integration would be strongly influenced by whether Ukraine held a free and fair vote. U.S. officials said the United States could work with either major candidate, if he is elected fairly. In an October 14 press statement, State Department spokesman Richard Boucher said that the United States was "deeply disappointed" that the campaign fell short of international standards. He warned that the United States would reexamine its relationship with those engaged in election fraud and manipulation. On November 1, State Department spokesman Adam Ereli said that the United States agreed with the assessment of the OSCE observers that the conduct of the first round of the vote fell short of democratic standards, noting particularly flawed voter lists and arbitrary expulsion of electoral commissioners shortly before the vote.

Senator Richard Lugar, chairman of the Senate Foreign Relations Committee, monitored the November 21 runoff at the request of President Bush. He said after the vote that "it is now apparent that there was a concerted and forceful program of election day fraud and abuse enacted with the leadership or cooperation of the authorities." Senator Lugar said that he had carried a letter from President Bush to President Kuchma that warned that a "tarnished election" will cause the United States

¹⁰ "Putin To Respect New Ukraine Election — Germany," *Reuters*, November 30, 2004.

to “review” its relations with Ukraine. Senator Lugar stressed that Kuchma “has the responsibility and the opportunity for producing even at this point an outcome which is fair and responsible.”¹¹

President Bush and Administration officials issued sharp criticisms of the conduct of the second round of the elections. On November 24, Secretary of State Colin Powell said that the United States could not accept the officially declared election results as “legitimate” due to the “extensive and credible reports of fraud in the election.” Powell called for a “full review of the conduct of the election and the tallying of election results.”¹² On November 26, President Bush said that the validity of Ukraine’s elections was “in doubt” and warned that the “international community is watching very carefully” how the Ukrainian government responds to “allegations of vote fraud.”¹³ On November 29, Secretary Powell stressed in discussions with Kuchma and Russian Foreign Minister Sergey Lavrov U.S. support for a peaceful solution to the crisis that respects Ukraine’s territorial integrity. State Department officials have expressed strong U.S. opposition to any separatist initiatives in Ukraine.¹⁴ On December 2, President Bush added that “any election, if there is one, ought to be free from any foreign influence. These elections ought to be open and fair.”¹⁵

Secretary Powell praised the Ukrainian Supreme Court’s decision to hold a repeat vote, calling it a “victory for the Ukrainian people.”¹⁶ U.S. officials issued statements strongly supporting the political reform package agreed to by President Kuchma and the Ukrainian parliament on December 8. U.S. spokesmen also called for a thorough and transparent investigation of the alleged poisoning of Yushchenko.

During a December 7 hearing before the House International Relations Committee, John Tefft, Deputy Assistant Secretary of State for European and Eurasian Affairs, detailed U.S. efforts to promote free and fair elections in Ukraine. He said that election-related assistance amounted to about \$13.8 million. The aid included support for independent media, non-partisan political party training, voter education, training for election officials and observers. The United States funded anti-fraud efforts such as independent exit polling and parallel vote counts. The United States also provided financial support for OSCE and other election observers. Tefft also announced that the Administration had submitted a Congressional Notification for an additional \$3 million for the December 26 repeat vote, including

¹¹ Text of statement from Sen. Lugar’s website, [<http://lugar.senate.gov>].

¹² State Department briefing by Secretary of State Colin Powell, November 24, 2004, from the State Department website, [<http://www.state.gov>].

¹³ “Media Availability with President George W. Bush,” Federal News Service transcript, November 26, 2004.

¹⁴ “Powell Says U.S. Supports Territorial Integrity of Ukraine,” transcript from the State Department website, [<http://www.state.gov>].

¹⁵ Steve Holland, “Bush: Ukraine Should be Free of Foreign Influence,” Reuters news agency, December 2, 2004.

¹⁶ “Remarks at Stakeout at the Mayflower Hotel,” December 6, 2004, from the State Department website, [<http://www.state.gov>]

\$0.5 million for OSCE observers and \$2.5 million for NGO monitoring and other election-related activities.

On December 27, Secretary Powell hailed the “free and fair” conduct of the December 26 repeat vote as a “historic day for democracy in Ukraine” and said that the United States looks forward to working with the new Ukrainian president. Secretary Powell attended Yushchenko’s inauguration on January 23, 2005. During a January 26 meeting in Krakow, Poland with Yushchenko, Vice President Dick Cheney hailed Ukraine’s free and fair election and said President Yushchenko was “an ally in freedom’s cause, and President Bush and the American people stand with him.” He said that the United States supports “Ukraine’s aspirations to join the institutions that bind the free nations of the West.”¹⁷

U.S. Policy Issues

One important issue for U.S. policy will be how to support the new democratic leadership in Ukraine. Political measures could include an early visit to Washington by Yushchenko or a visit to Ukraine by President Bush, perhaps during his February 2005 trip to Europe. The United States could also increase bilateral aid and lending from international financial institutions and offer other forms of support to the new leadership. Current aid levels are relatively modest. The conference report for the FY2005 foreign aid bill (P.L. 108-447) provides \$70 million for Ukraine in Freedom Support Act aid for political and economic reform and \$3 million in Foreign Military Financing. If the President’s FY2005 request for other accounts such as International Military Education and Training, the Peace Corps, children’s health programs, and non-proliferation assistance are fully funded, the total would reach \$84.9 million. Some experts propose that Congress approve legislation to graduate Ukraine from the provisions of the Jackson-Vanik amendment, which conditions Normal Trade Relations (NTR) status on freedom of emigration.¹⁸ Ukraine’s efforts to join the World Trade Organization would be enhanced if the Department of Commerce designated Ukraine as a market economy. Such U.S. assistance, and similar assistance and support from the EU, could be important to consolidating the gains of democratic forces in Ukraine in the run-up to the March 2006 parliamentary elections, which have assumed even greater importance due to the political reforms adopted as part of the solution to Ukraine’s political crisis.

There is also the issue of the impact of Ukraine’s political crisis on the bilateral relationship between the United States and Russia. Some observers have questioned whether the United States, in hopes of fostering a good bilateral relationship with Moscow, has overlooked longstanding Russian rhetoric and actions aimed at consolidating a Russian sphere of influence over many of the Soviet successor states such as Georgia, Moldova, Belarus, and now Ukraine. They say that an alleged reluctance by the United States to strongly criticize Putin’s own increasing

¹⁷ White House transcript of Vice President Cheney’s remarks, January 27, 2005, from the State Department website [<http://www.state.gov>].

¹⁸ Stephen Pifer, “Next Steps in Ukraine,” Washington Post, January 1, 2005, A23.

authoritarianism at home may have also encouraged Moscow to believe that the United States would not try to stop his efforts to support similar “managed democracies” in neighboring countries. In response, Administration officials have noted that they have firmly rejected Russian accusations of U.S. interference in Ukraine’s internal affairs, saying the issue is one of democracy in Ukraine, not alleged geopolitical competition between Russia and the West. They say that publicly raising Ukraine as an issue in overall U.S.-Russian relations would not help resolve the issue, and could hurt U.S.-Russian cooperation on vital issues such as the global war on terror.¹⁹

There is also the question of possible NATO membership for Ukraine. Yushchenko has said that he favors eventual Ukrainian membership in NATO, although he has given more emphasis to the goal of EU membership. The Kuchma regime, at least until the recent election campaign, also said that it sought membership in the Alliance, and the United States expressed support for Ukraine’s aspirations. However, Ukraine’s lack of progress on reforms made such statements largely moot. The emergence of a Western-oriented regime in Kiev may make this issue more important. If the United States decided to strongly support Ukraine’s NATO aspirations, it will likely also have to cope with Moscow’s strident opposition to Ukraine’s NATO membership, as well as tension with European NATO allies more eager to accommodate Moscow on the issue. Possible U.S. efforts to urge the EU to take a more flexible stance on possible EU membership for Ukraine could also increase friction with some European countries.

Iraq

Another important issue for U.S. policymakers is the possible withdrawal of Ukrainian troops from Iraq. U.S. officials said before the presidential election that Ukraine’s contribution of 1,600 troops, while appreciated, would not cause the United States to overlook Ukraine’s democratic shortcomings. However, some observers were concerned that Ukrainian leaders were hoping that the United States would downplay election irregularities if Ukraine continued its troop deployment in Iraq. During the campaign, Yushchenko pledged to withdraw the troops if elected. Yanukovych has supported the deployment, but has raised the possibility that a continued deployment could be conditioned on such factors as whether Ukraine receives more reconstruction contracts in Iraq.

On December 3, the Ukrainian parliament approved a non-binding resolution calling on President Kuchma to withdraw Ukraine’s contingent from Iraq. The resolution was supported by pro-regime members, as well as a few pro-Yushchenko groups and the Socialist and Communist factions. The move may have been intended by the regime as a warning to the United States to temper its perceived support for

¹⁹ Elizabeth Bumiller, “A Softer Tone From Bush on Ukraine Points to a Quandary for U.S.,” *New York Times*, November 30, 2004, from the New York Times website [<http://www.nytimes.com>]. For more on the pattern of increasingly harsh Russian criticism of U.S. and Western “intervention” in Ukraine, and relatively restrained U.S. response, through the second week of the Ukrainian election crisis, see Andrew F. Tully and Jeremy Bransten, “U.S./Russia: Ukrainian Crisis Strains Relationship,” RFE/RL, December 8, 2004.

Yushchenko. On January 10, President Kuchma ordered the Defense Ministry to draw up plans to withdraw all Ukrainian forces from Iraq by the end of June 2005. Defense Minister Oleksandr Kuzmuk said the withdrawal could start as early as March or April 2005. The order came a day after eight Ukrainian soldiers died at an explosion at an ammunition dump, bring the total number of Ukrainians troops killed in Iraq to 16.²⁰ On January 11, the Ukrainian parliament passed another non-binding resolution by a vote of 308-0 that called on Kuchma to immediately issue a decree implementing the withdrawal without delay. On January 26, President Yushchenko confirmed that he will pull Ukraine's troops out of Iraq, but that the schedule for the withdrawal and other details would be decided in consultation with Ukraine's allies and the Iraqi government.

U.S. officials have been cautious in responding to Ukraine's troop withdrawal plans. They reacted to Kuchma's troop withdrawal decree by cautioning that such decisions should be taken by the new leadership, not the outgoing one, and should be taken only after consultations with allies. The Administration has not issued a public response to Yushchenko's statements since becoming President that he will go through with the withdrawal.

Congressional Action

The 108th Congress considered legislation on the Ukrainian elections. On July 22, 2004, the Senate passed S. Con. Res. 106 by unanimous consent. The resolution, introduced by Senator Campbell, notes the violations against OSCE standards for free and fair elections that have taken place during past elections and during the present Ukrainian election campaign. The resolution pledges Congress's support for Ukraine's establishment of democracy, free markets, and a place in the Western community of democracies. H.Con.Res. 415, introduced by Representative Hyde, was passed by the House on October 4. It is identical to S.Con.Res. 106, except that it adds two clauses that "strongly encourage" the President to fully employ U.S. government resources to ensure a free and fair election and to stress to the Ukrainian government that the conduct of the elections will be "a central factor in determining the future relationship between the two countries."

Representative Rohrabacher introduced H.R. 5102 on September 15, 2004. The bill details the failures of the Ukrainian government to uphold democratic standards in the past and during the present campaign, and calls on it to ensure that a free and fair election takes place. However, it also includes provisions for sanctions on Ukrainian leaders and the Ukrainian government if the U.S. president does not certify that Ukraine has implemented free and fair elections, and stopped harassment of the opposition, independent media and other groups. The President would have the authority to waive the sanctions if he certifies that it is in the "national security interest of the United States" to do so. The bill would require a report from the President on the personal assets of the Ukrainian leadership and on whether Ukraine has supplied weapons or weapons-related technologies to regimes supporting terrorism. Representative Rohrabacher introduced a modified version of the bill on

²⁰ Associated Press wire dispatch, January 10, 2005.

October 7 as H.R. 5247. A companion Senate bill, S. 2957, was introduced by Senator Kyl on October 8.

On November 18, the Senate passed S.Res. 473 by unanimous consent. As in the case of H.Con.Res. 415, it warns Ukrainian leaders against conducting a fraudulent election. However, it goes further than H.Con.Res. 415 in that it “strongly encourages” the Administration to impose sanctions, including visa bans, against those encouraging or participating in fraud.

The House International Relations Committee held a hearing on the Ukrainian elections on December 7, 2004. The witnesses were Senator Lugar, Representative Kaptur (co-chair of the House Ukrainian Caucus), and John Tefft, Deputy Assistant Secretary of State for European and Eurasian Affairs.

The 109th Congress has passed resolutions on the Ukrainian elections. On January 25, 2005, the House passed H.Con.Res. 16, and the Senate passed S.Con.Res. 7 on January 26, 2005. The identical resolutions include clauses congratulating Ukraine for its commitment to democracy and its resolution of its political crisis in a peaceful manner; congratulating Yushchenko on his victory; applauding the candidates, the EU and other European organizations and the U.S. Government for helping to find that peaceful solution; and pledging U.S. help to Ukraine’s efforts to develop democracy, a free market economy, and integrate into the international community of democracies. On January 24, Senators Carl Levin and Richard Lugar introduced S. 46, a bill to give permanent Normal Trade Relations treatment to Ukraine. The bill also expresses support for Ukraine’s efforts to secure WTO membership.